



9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 110

Docket Number USCG-2015-0825

RIN 1625-AA01

Anchorage Regulations; Delaware River, Philadelphia, PA

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard is amending the geographic coordinates and modifying the regulated use of anchorage “10” in the Delaware River in the vicinity of the Navy Yard in Philadelphia, Pennsylvania. The change alters the size and use of the anchorage, reducing the anchorage in size and allowing the anchorage to be used as a general anchorage ground in the Delaware River.

DATES: This rule is effective [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, type USCG-2015-0825 in the “SEARCH” box and click “SEARCH.” Click on Open Docket Folder on the line associated with this rule.

FOR FURTHER INFORMATION CONTACT: If you have questions about this rulemaking, call or email Lieutenant Brennan Dougherty, U.S. Coast Guard Sector Delaware Bay, Chief

Waterways Management Division; telephone (215) 271-4851, e-mail

Brennan.P.Dougherty@uscg.mil.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR	Code of Federal Regulations
DHS	Department of Homeland Security
FR	Federal Register
NPRM	Notice of proposed rulemaking
§	Section
U.S.C.	United States Code
COTP	Captain of the Port

II. Background Information and Regulatory History

On December 12, 1967, the Coast Guard published a final rule (32 FR 17726, 17749) establishing an anchorage ground on the Delaware River in Philadelphia, Pennsylvania in 33 CFR part 110. The anchorage ground established is contained in 33 CFR 110.157(a)(11). The anchorage currently remains unused by the Navy Yard. Removing the restrictions on anchorage “10” will alleviate congestion within the port, allowing the anchorage to be used as a general anchorage for commercial traffic.

On January 5, 2016, the Coast Guard published a notice of proposed rulemaking (NPRM) titled Anchorage Regulations, Delaware River; Philadelphia, PA (81 FR 194). It proposed to change the shape and the dimensions of anchorage “10”, and to remove the “restricted naval anchorage” verbiage from § 110.157(a)(11). We invited comments on this proposed change. During the comment period that ended February 4, 2016, we received no public comments, but we did receive a comment from National Oceanic and Atmospheric Administration (NOAA) which we discuss below.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 33 U.S.C. 471, 1221 through 1236, and 2071; and in 33 CFR 1.05-1.

This rule changes the shape and the dimensions of anchorage “10.” The anchorage currently remains unused by the Navy Yard. Removing the restrictions on anchorage “10” will alleviate congestion within the port by allowing the anchorage to be used as a general anchorage ground for commercial traffic.

IV. Discussion of Comments, Changes, and the Rule

As noted above, we received no public comments on our NPRM published January 5, 2016. Based on comments from NOAA, however, we make two changes in the regulatory text of this rule from our proposed.

The first change identifies the horizontal reference datum for the latitudes and longitudes of the boundaries of the anchorage grounds as the World Geodetic System 1984 (WGS 84). The second change replaces the verbiage “West Horseshoe Range” with “Eagle Point Range” within the anchorage rule text. The original anchorage regulation, 33 CFR 110.157(a)(11) Anchorage 10, uses “West Horseshoe Range” as a boundary reference, however, the National Oceanic and Atmospheric Administration (NOAA) Nautical Charts identifies the range as “Eagle Point Range”. Therefore, we changed the boundary reference in our rule from “West Horseshoe Range” to “Eagle Point Range.”

The revised anchorage ground runs parallel to the north side of the channel along Eagle Point range, is narrower north to south, and is slightly longer east to west than the existing anchorage ground. Additionally, as proposed, we removed the “restricted naval anchorage” verbiage from the regulation. This permits commercial and other vessels to anchor within its bounds. The regulatory text appears at the end of this document.

V. Regulatory Analyses

We developed this rule after considering numerous statutes and Executive orders related to rulemaking. Below we summarize our analyses based on a number of these statutes and Executive orders.

A. Regulatory Planning and Review

E.O.s 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This rule has not been designated a “significant regulatory action,” under Executive Order 12866. Accordingly, it has not been reviewed by the Office of Management and Budget.

This rule is not a significant regulatory action because it will not interfere with existing maritime activity on the Delaware River. Moreover, it enhances navigational safety along the Delaware River by providing an additional anchorage for commercial and recreational vessels. The anchorage maintains the same parallel distance along the channel boundaries as the existing anchorage. The impacts to navigational safety are expected to be minimal because the anchorage area will not unnecessarily restrict traffic, as it is located outside of the established navigation channel. Vessels may navigate in, around, and through the anchorage.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term “small entities” comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental

jurisdictions with populations of less than 50,000. The Coast Guard received no comments from the Small Business Administration on this rulemaking. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

While some owners or operators of vessels intending to transit or use the anchorage may be small entities, for the reasons stated in section V.A above, this rule will not have a significant economic impact on any vessel owner or operator.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), we want to assist small entities in understanding this rule. If the rule does affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the FOR FURTHER INFORMATION CONTACT section.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1-888-REG-FAIR (1-888-734-3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

C. Collection of Information

This rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

D. Federalism and Indian Tribal Governments

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

Also, this rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. If you believe this rule has implications for federalism or Indian tribes, please contact the person listed in the FOR FURTHER INFORMATION CONTACT section.

E. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

F. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023-01 and Commandant Instruction M16475.1D, which guide the Coast Guard in

complying with the National Environmental Policy Act of 1969(42 U.S.C. 4321-4370f), and have made a preliminary determination that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves the alteration of the size and use of anchorage “10,” restricted Naval Anchorage. It is categorically excluded from further review under paragraph 34(f) of Figure 2-1 of Commandant Instruction M16475.ID. An environmental analysis checklist supporting this determination and a Categorical Exclusion Determination are available in the docket where indicated under ADDRESSES. We seek any comments or information that may lead to the discovery of a significant environmental impact from this rule.

List of Subjects in 33 CFR Part 110

Anchorage grounds.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 110 as follows:

PART 110--ANCHORAGE REGULATIONS

1. The authority citation for part 110 continues to read as follows:

Authority: 33 U.S.C. 471, 1221 through 1236, 2071; 33 CFR 1.05-1; Department of Homeland Security Delegation No. 0170.1.

2. Revise § 110.157(a)(11) to read as follows:

§ 110.157 Delaware Bay and River.

(a) * * *

(11) Anchorage 10 at Naval Base, Philadelphia. On the north side of the channel along Eagle Point Range, bounded as follows: Beginning off of the southeasterly corner of Pier 1 at 39°53'07" N, 075°10'30" W, thence south to the to the north edge of the channel along Eagle Point Range to 39°52'58" N, 075°10'29" W, thence east along the edge of the channel to 39°52'56" N, 075°09'53" W, thence north to 39°53'07" N, 075°09'54" W, thence continuing west to the beginning point at 39°53'07" N, 075°10'30" W. These coordinates are based on WGS 84.

* * * * *

Dated: April 22, 2016.

ROBERT J. TARANTINO,

Captain, U.S. Coast Guard,

Acting Commander, Fifth Coast Guard District.

[FR Doc. 2016-10577 Filed: 5/4/2016 8:45 am; Publication Date: 5/5/2016]